

Jonathan Schwalb, Esq.  
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Attorney for Fay Servicing LLC., as servicer for  
Wilmington Trust, National Association, not in its individual capacity,  
but solely as Trustee for MFRA Trust 2015-1  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

IN RE: : HON. JUDGE.:  
Patrick Anthony Frazier : KATHRYN C. FERGUSON  
Nicole Suzanne Frazier : HEARING DATE:  
Debtor : **November 14, 2018 at 10:00**  
: **AM**  
:

## **NOTICE OF OBJECTION TO CONFIRMATION OF FIRST MODIFIED PLAN**

**PLEASE TAKE NOTICE** that Fay Servicing LLC., as servicer for Wilmington Trust, National Association, not in its individual capacity, but solely as Trustee for MFRA Trust 2015-1 (“Secured Creditor”), the holder of a mortgage on real property of the debtor(s), by and through its undersigned attorneys, hereby objects to the confirmation of the Modified Chapter 13 Plan on grounds including:

1. Debtor(s) modified plan fails to provide for the claim of Secured Creditor. The objecting creditor has a filed Proof of Claim in the amount of \$536,833.65, filed on August 7, 2018.
2. Debtor's modified plan does not propose to maintain regular monthly mortgage payments. Secured Creditor objects to any provision that allows for Debtor to tender less

than the full regular payment. Per Debtor's Schedule A, there is no equity in the subject property. Therefore, in light of the failure of any intent to maintain regular payments outside of the plan and the lack of equity in the subject property, the Secured Creditor is not adequately protected.

3. Debtor(s) proposed plan is not feasible.
4. Debtor(s) proposed plan fails to comply with other applicable provisions of Title 11.
5. Furthermore, Secured Creditor objects to Debtor's confirmation in that if the Debtor is post-petition delinquent with the Trustee at the time of confirmation and Debtors' case is dismissed, then any excess funds that the Chapter 13 Trustee is holding should be released to the Secured Creditor. Absent the release of any excess funds in the possession of the Trustee, Secured Creditor is substantially harmed as the Debtor would have enjoyed the benefit of the automatic stay to the detriment of Secured Creditor. Absent such language in the Order of Confirmation, confirmation of Debtor's plan must be denied.

In the event any portion of the claim is deemed to be an unsecured claim as defined by the Code, objection is hereby made pursuant to 11 U.S.C § 1325(a)(4) and 1325(b), et seq. unless the plan provides for full payment of the claim.

For the reasons stated above, and for any others that the Court deems fit to adopt, Secured Creditor respectfully objects to Debtor's modified plan and confirmation thereof.

FRIEDMAN VARTOLO LLP  
85 Broad Street Suite 501  
New York, New York 10004  
Attorneys for Secured Creditor,  
Fay Servicing LLC., as servicer for  
Wilmington Trust, National  
Association, not in its individual  
capacity, but solely as Trustee for  
MFRA Trust 2015-1  
By: /s/ Jonathan Schwalb  
Jonathan Schwalb, Esq.

Date: October 26, 2018

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR 9004-1(b)**

Jonathan Schwalb, Esq.  
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P: (212) 471-5100

Attorneys for Fay Servicing LLC as servicer for  
Wilmington Trust, National Association, not in  
its individual capacity, but solely as Trustee for  
MFRA Trust 2015-1

In Re:

Patrick Anthony Frazier  
Nicole Suzanne Frazier

Case No.: 18-24038

Chapter: 13

Adv. No.: \_\_\_\_\_

Hearing Date: November 14, 2018 at 10:00 AM

Hon. Judge: Kathryn C. Ferguson

**CERTIFICATION OF SERVICE**

1. I, Theodore Weber :

represent \_\_\_\_\_ in the this matter.

am the secretary/paralegal for Jonathan Schwalb, Esq., who represents  
Fay Servicing LLC in the this matter.

am the \_\_\_\_\_ in the this case and am representing myself.

2. On October 26, 2018, I sent a copy of the following pleadings and/or documents  
to the parties listed in the chart below.

- Notice of Objection to Confirmation of Modified Plan

3. I certify under penalty of perjury that the above documents were sent using the mode of service  
indicated.

Date: October 26, 2018

/s/ Theodore Weber  
Signature

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Patrick Anthony Frazier 588 Conroy Avenue Toms River, NJ 08753	Debtor(s)	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
Nicole Suzanne Frazier 588 Conroy Avenue Toms River, NJ 08753		
William H. Oliver, Jr. William H. Oliver, JR 2240 State Highway 33 Suite 112 Neptune, NJ 07753	Debtor(s) Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)